

**APPENDIX**

Supreme Court, U. S.

**FILED**

JAN 24 1980

MICHAEL RODAK, JR., CLERK

**IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term, 1979**

**NO. 79-616**

**MOHASCO CORPORATION,**

*Petitioner,*

**vs.**

**RALPH H. SILVER,**

*Respondent.*

**ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

---

---

**Petition For Certiorari Filed October 15, 1979**

**Certiorari Granted December 10, 1979**

In The  
SUPREME COURT OF THE UNITED STATES  
October Term, 1979

NO. 79-616

MOHASCO CORPORATION,

*Petitioner,*

vs.

RALPH H. SILVER,

*Respondent.*

ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

INDEX TO APPENDIX.

	Page
Chronological List of Relevant Docket Entries .....	1
Silver's Charge Letter dated June 10, 1976 to the Equal Employment Opportunity Commission ["EEOC"] (date-stamped June 15, 1976 by the Buffalo District Office) .....	3
EEOC's "Notice of Deferral Transmittal" to the New York State Division of Human Rights ["Human Rights Division"] dated June 15, 1976..	7
EEOC's letter (by Edwin C. Casler, District Director) to Silver dated June 16, 1976 .....	9
Human Rights Division's letter (by Hilda Matos, Case Control Unit - EEOC Section) to Silver dated June 18, 1976 .....	11

	Page
Silver's verified Human Rights Division Complaint filed August 12, 1976 .....	13
EEOC's letter (by Edwin C. Casler, District Director) to Silver dated August 20, 1976.....	15
EEOC's "Notice of Charge of Employment Discrimination" to Mohasco Corporation dated August 20, 1976 .....	17
Notice of Right to Sue .....	19
 The following opinions and orders are printed in Appendix A to the Petition for a Writ of Certiorari:	
Opinion of District Court, October 17, 1978 .....	
.....Cert. Pet. App. A1	
Opinion of Court of Appeals, July 18, 1979 .....	
.....Cert. Pet. App. A23	
Determination of New York State Division of Human Rights, February 9, 1977.....	
.....Cert. Pet. App. A45	
Determination of New York State Human Rights Appeal Board, December 22, 1977 .....	
.....Cert. Pet. App. A47	
Determination of Equal Employment Opportunity Commission, August 24, 1977.....Cert. Pet. App. A49	
 The following statutory provisions are printed in Appendix B to the Petition for a Writ of Certiorari:	
Section 706(c) of Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e-5(c) .....Cert. Pet. App. A51	
Section 706(e) of Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e-5(e) .....Cert. Pet. App. A51	

## CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the United States District Court for the  
Northern District of New York

Date	Nr.	Proceedings
1977		
Nov. 23	(1)	Filed Complaint - Issued summons-orig. & 6 copies.
Nov. 28		Delivered Summons-orig. & 6 copies to the Marshal for service.
Dec. 22	(5)	Filed summons served 12/9/77 on Edward Cullen, James Cullen; Raymond Greenhill through Sonja Greenhill, wife; on Frederick Woller through Alicia Woller, wife; served 12/7/77 on Mohasco Corp. through Allan Brown, Counsel; served 12/15/77 on Herbert Brown through Arlene Brown, wife; served 12/9/77 on Mohasco Corp. through Allan Brown, Atty.
Dec. 29	(6)	Filed Answer by defendant Mohasco Corp. & proof of service.
1978		
Feb. 14	(11)	Filed Motion for Summary Judgment returnable March 6, 1978 at Albany, Memorandum in Support, Affidavit of Richard H. Lange with exhibits and Notice of Motion.
June 2	(20)	Filed Affidavit of Margrethe R. Powers in Opposition and affidavit of service by mail.

Date	Nr.	Proceedings
1978		
Oct. 19	(22)	Filed Memorandum-Decision and Order of Judge Foley (10/17/78) granting motion to dismiss by defendants Curren, Greenhill, Woller, Brown and Cullen and granting Mohasco Corporation's motion for summary judgment. Therefore the complaint is dismissed in its entirety.
Oct. 19	(23)	Filed Judgment and mailed cards re: Judgment to Powers and Ghandi, Esqs., Richard H. Lange, Esq. and Bouck, Holloway and Kiernan, Esqs.
Nov. 1	(25)	Filed Notice of Appeal by plaintiff.

Ralph H. Silver  
211 Crescent Village  
Clifton Park, N.Y. 12065  
June 10, 1976

Buffalo District Office  
Equal Employment Opportunity Commission  
One West Genesee  
Room 1020  
Buffalo, NY 14202

[EEOC's date stamp omitted in printing]

Dear Sirs:

I learned from Mrs. Lyn Miller today that I have only 300 days in which to file a claim. Since I was terminated from Mohasco Corporation, Amsterdam, N.Y., on August 29, 1975, I desire to file a claim with this letter.

Stated simply and succinctly, I was both hired and fired because of my religion. The fact is, I was the third Jewish economist hired by Mohasco to fill a single position within a three year period. The first was Ron Woodward. The second, Dick Kahn.

Why was this so? I too was suspicious when I learned this right at the start of my employment. It did not mean anything to me. I had worked for the second largest management consulting firm in the world, the second largest economic consulting firm in the country. I had a graduate degree from Columbia University and I had never been discriminated against. I thought it could never happen to me.

Last month a personal friend who is also a high Mohasco executive finally "leveled" with me. He told me that Mohasco created the economist position to give token compliance with job anti-discrimination legislation because enforcement was becoming increasingly more active with each passing year. The plan to create a "minority" slot(s) on the executive level was the idea of Frederick Woller, former Director Management Manpower, who now devotes full time to personnel special projects. Because of his close association with Edward Curren, vice president Corporate Planning, it was decided that the slot(s) would

be set up in Mr. Curren's area of command. Because many retailers in the home furnishings industry with which Mohasco deals are Jewish, this would be the least undesirable minority with which to fill the economist slot. I was told that after I left it was recognized that three Jewish economists in a row was pushing it too far and so some attempt was made to hire a female economist. Hadn't I noticed that one never saw a black or Spanish speaking employee at the corporate headquarters even though Amsterdam has a relatively large Spanish speaking population?

There are numerous supporting facts which keep surfacing and which made no sense to me until a few weeks ago. For example, during one of the initial interviews I was asked, Where were your parents born? And, of course, up until termination, 3:00 P.M. on a Friday afternoon, I had received no hint that my work was anything but good. My performance appraisal which was first due after nine months and then on July 15th, the one year period, was postponed although I requested a sit-down. But because I worked hard, between 60 and 90 hours a week, sleeping many nights at the home of Charles Ferris in Amsterdam so that I could remain at the office until 10:00 P.M. and because important papers were removed from my files by my superior, Raymond Greenhill, personnel attempted to soften the injustice of my termination by allowing me to refer reference inquiries directly to them. I was also permitted to tell prospective employers that I had resigned.

Although I had been a donkey for the year I served as senior marketing economist in not knowing the primary qualification for having been hired or that it would not be long, despite the high quality of my work and my loyalty to the company, before I would be put out of the door, others around me, I now learn, were well aware of what was happening. It is only after learning the facts from a friend that I now call upon your agency to ask for your help.

On a mathematical basis the probability for randomly selecting three economists who are each of the Jewish faith is so low that to my mind chance played no part in

Mohasco personnel policy. I believe that this fact alone warrants an investigation of a policy which turned out to be a rather cruel and humiliating experience for me. I have never before been the subject of a practical joke which lasted for over a year.

The many supporting facts, memoranda, etc., which I have for you are lengthy and requires some considerable explanation. For this reason I would like to meet with a member of your office. I understand that there is an investigator who periodically visits my area. If for some reason this raises problems, I will travel to Buffalo. You can count on my full cooperation and honesty.

An investigation of Mohasco personnel policies, I believe, will show them to be of the nineteenth century and in violation not only of the law, but of fundamental human decency.

This then is my rough, incomplete and hastily drafted complaint.

Very truly yours,

/s/ Ralph H. Silver

Ralph H. Silver

7 [Case Control Unit Date  
Stamp Omitted in Printing]

Date 6-15-76

EEOC Charge No. TBU6-0777

WMS Code \_\_\_\_\_

Case Control Unit-EEOC Section  
State of New York  
To: Division of Human Rights  
270 Broadway  
New York, New York 10007

Mr. Ralph H. Silver  
211 Crescent Village  
Clifton Park, NY 12065  
vs.  
Mohasco Corp.

SUBJECT: NOTICE OF DEFERRAL TRANSMITTAL

Transmitted hereby is EEOC Form 5, Charge of Employment Discrimination or other official written material identified above. This charge is being deferred to your agency pursuant to Section 706(c) of Title VII of the Civil Rights Act of 1964, as amended. The Commission will automatically file this charge at the expiration of the deferral period, unless we are notified before the expiration of that period that your agency has terminated its proceedings. The charging party has been notified of this deferral.

Please complete and return the bottom portion of this form to advise us whether you intend to process the charge. If you accept it for processing, EEOC will refrain from processing until a final disposition is made by your agency.

Name of District Director	Signature
<u>EDWIN C. CASLER</u>	/s/ Edwin C. Casler

RE: Ralph H. Silver vs.  
Mohasco Corp.

To Whom it may Concern:

This will acknowledge receipt of the referenced charge.  
This agency

Will process this charge. Please refrain from processing  
until we have reached a final disposition.

Will not process this charge because \_\_\_\_\_

Date \_\_\_\_\_

EEOC Charge No. TBU 6-0777

706 Agency  
Charge No. 7978

WMS Code \_\_\_\_\_

To: Equal Employment Opportunity Commission  
1 Genesee Street, Room 320  
Buffalo, NY 14202

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
1 West Genesee Street  
Buffalo, New York 14202  
(716) 842-5170

[EEOC's seal omitted in printing]

June 16, 1976

Ralph H. Silver  
211 Crescent Village  
Clifton Park, New York 12065

RE: TBU6-0777

Dear Mr. Silver:

We have received your charge that you have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended.

If you have not done so already, you should file your charge with the New York State Division of Human Rights.

The enclosed papers inform you of your rights and Equal Employment Opportunity Commission procedures. If you have any further questions, please write or call us.

Sincerely,

EDWIN C. CASLER  
District Director

Enclosures

STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
DIVISION OF HUMAN RIGHTS  
Two World Trade Center  
New York, New York 10047

[Division of Human Rights' Seal omitted in printing]

June 18, 1976

Mr. Ralph H. Silver  
211 Crescent Village  
Clifton, N.Y. 12065

Re: Your charge against

Mohasco Corp.

EEOC Charge No. TBU6-0777

Dear Mr. Silver,

A copy of your charge or letter to the Equal Employment Opportunity Commission has been referred to our attention, in accordance with the provisions of the Civil Rights Act of 1964.

The New York State Human Rights Law confers jurisdiction upon this Division to receive and pass upon complaints alleging discrimination in employment because of age, race, creed, color, national origin, disability, sex, or marital status. However, the Equal Employment Opportunity Commission lacks jurisdiction in the areas of age, disability and marital status.

I am referring your correspondence to the attention of the following person and office:

Mr. John W. Walker, Jr., Regional Director  
217 Lark St., Albany, N.Y. 12210  
Tel: 518 474-2705

You are invited to visit this or any other regional office of the Division to file a complaint. Our offices are open Monday through Friday from 9:00 A.M. to 5:00 P.M. Please bring this letter with you and give it to the person with whom you speak.

It is requested that you file a complaint with this Division within 30 days.

Very truly yours,

/s/ Hilda Matos

Hilda Matos  
Case Control Unit-EEOCSection

State of New York: Executive Department

State Division of Human Rights  
on the complaint of

RALPH H. SILVER

Complainant,

- against -

MOHASCO CORPORATION

Complaint No.

IV-E-C-1581-76E

EEOC Charge No.

TBU6-0777

Respondent(s):

I, . . . Ralph H. Silver  
residing at . . . 211 Crescent Village, Clifton Park, NY 12055  
..... Tel. No. 371-5447  
charge the above-named respondent(s) whose address(es)  
is(are) . . . 57 Lyon Street, Amsterdam, N.Y., 12010 (841-2211) . . .

with an unlawful discriminatory practice relating to . . .  
Employment . . .  
(fill in field of jurisdiction)

in violation of Article 15 of the Executive Law of the  
State of New York on or about . . . August 29, 1975 . . .  
because of Age ( ), Race ( ), Creed (X), Color ( ),  
National Origin ( ), Sex( ), Disability ( ), Marital  
Status ( ), Retaliation ( ).

The particulars are:

- I. I began employment with respondent as an Economist on 7/15/74.
- II. On information and belief, I was the third Economist of the Jewish faith to be hired by respondent in approximately three years.
- III. Further on information and belief the position of Economist, and hiring Jews for the position, was created by respondent to give "token" compliance with anti-discrimination legislation and Affirmative Action.

IV. I feel that my performance in the position was satisfactory. I had no adverse criticism of my work until the time of my termination.

V. I was terminated from employment on August 29, 1975.

VI. I am of the Jewish faith. Based on the above I charge respondent with terminating me from employment because of my creed, in violation of the Human Rights Law of the State of New York.

I have not commenced any other civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

I also charge the above-named respondent(s) with violating Title VII Civil Rights Act 1964, as amended (covers race, color, religion, sex, national origin relating to employment) and hereby authorize SDHR to accept this verified complaint on behalf of EEOC subject to the statutory limitations contained in Title VII.

..... Signature

State of New York ) ss:  
County of Albany )

..Ralph H. Silver....., being duly sworn, deposes and says: that he is the complainant herein, that he has read (or had read to him) the foregoing complaint and knows the contents thereof, that the same is true of his own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he believes the same to be true.

..... /s/ Ralph H. Silver.....  
(Signature of Complainant)

Subscribed and sworn to before me  
this 12th say of August, 1976.

/s/ Helen M. Cox

Helen M. Cox  
Notary Public, State of New York  
No. 0786500  
Qualified in Albany County  
Term Expires March 30, 1977.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
1 West Genesee Street  
Buffalo, New York 14202  
(716) 842-5170

[EEOC's seal omitted in printing]

August 20, 1976

Ralph Silver  
211 Crescent Village  
Clifton Park, New York 12065

In reply refer to: TBU6-0777

Pursuant to the requirements of federal law, a notice is being sent to the person or persons you have charged with discrimination informing them of the charge you filed with this office. The purpose of this notice is to insure that no records will be destroyed that concern your case.

As explained in a letter sent to you earlier, the Buffalo District Office will not consider your charge until after the New York State Division of Human Rights' proceedings are completed.

Sincerely yours,

Edwin C. Casler  
District Director

---

Note: If your address changes, complete the information below and promptly mail to us.

Effective \_\_\_\_\_ my address changes to:

(Street Address) (City & State) (Telephone)

Charge No. TBU6-0777

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
BUFFALO DISTRICT OFFICE  
One W. Genesee Street - Room 1020  
Buffalo, New York 14202**

<b>Person Filing Charge</b>	
Ralph H. Silver	
<b>This Person (Check one)</b>	
<input checked="" type="checkbox"/>	Claims to be Aggrieved
Is filing on behalf of a person claiming to be aggrieved	
Is a commissioner of EEOC	
<b>Date of Alleged Violation</b>	
August 29, 1975	
<b>Place of Alleged Violation</b>	
Amsterdam, NY	
<b>Charge Number</b>	
TBU6-0777	

**Notice of Charge of Employment Discrimination**

*(See Notice of Non-retaliation on reverse)*

You are hereby notified that a charge of employment discrimination under Section 706 of the Civil Rights Act of 1964, 42 U.S.C. Section 2000c-5, as amended, has been filed against you. Information relating to the date, place, and circumstances of the alleged unlawful employment practice or practices is provided herein.

No action on your part is necessary at this time. However, if you wish to submit any information in writing, it will be made a part of the file and will be considered at the time we investigate this charge. Telephone communications cannot be made a part of the record. Section 1602.14 of the Commission's Regulations (See attachment) requires the preservation of all personnel records relevant to this charge, as described below, until it is resolved.

Because of the Commission's volume of pending work, we are unable to tell you when we can schedule investigation of this charge; we will however, contact you at the earliest possible date.

<b>BASIS OF DISCRIMINATION</b> <input type="checkbox"/> Race or Color <input type="checkbox"/> Sex <input checked="" type="checkbox"/> Religion <input type="checkbox"/> National Origin				
<b>NATURE OF CHARGE</b>				
Hiring	<input checked="" type="checkbox"/> Discharge	Layoff	Recall	
Wages	Promotion	Demotion	Seniority	
Job Classification	Training/Apprenticeship	Exclusion	Union Representation	
Segregated Locals	Referral	Qualification/Testing	Advertising	
Benefits	Segregated Facilities	Intimidation/Reprisal	Reprisal (USC 704(a) Only)	
Terms and Conditions	Unspecified and Other	Other (Specify)		
I hereby certify that I mailed the original of this Notice to the addressee herein above.				
Date 8/20/76	EEOC Employee (Signature) Edwin C. Casler, Dist. Director			

[Reverse side omitted in printing]

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
NOTICE OF RIGHT TO SUE**

To:  Ralph H. Silver 211 Crescent Village Clifton Park, New York 12065	
From:  U.S. Equal Employment Opportunity Commission Buffalo District Office One West Genesee Street, Room 320 Buffalo, New York 14202	
EEOC Representative  Edwin C. Casler, District Director	
Telephone Number (716) 842-5170	Case/Charge Number 023760777 (TBU6-0777)
This notice is issued for the following reason:  <input type="checkbox"/> Upon your request <input checked="" type="checkbox"/> No reasonable cause <input type="checkbox"/> Untimely charge <input type="checkbox"/> No jurisdiction <input type="checkbox"/> Failure to proceed	

If you want to pursue your charge further, you have the right to sue the respondent(s) named in this case in the United States District Court for the area where you live. **IF YOU DECIDE TO SUE, YOU MUST DO SO WITHIN NINETY (90) DAYS FROM THE RECEIPT OF THIS NOTICE; OTHERWISE YOUR RIGHT TO SUE IS LOST.**

If you do not have a lawyer or are unable to obtain the services of a lawyer, take this Notice to the United States District Court which may, in its discretion, appoint a lawyer to represent you.

You have a right to inspect and to copy information contained in the Commission's case file for use in a public court proceeding if you decide to sue. If you want to inspect this material, need help in filing your case in court, or have any questions about your legal rights, contact the EEOC representative named above.

An information copy of this Notice has been sent to the respondent(s)<sup>1</sup> named in this case.

8/24/77

(Date)

/s/ Edwin C. Casler

(Authorized EEOC Official)

District Director

cc:

To: (Respondent)  
Mohasco Corporation